

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE MERCK & CO., INC., SECURITIES,  
DERIVATIVE & "ERISA" LITIGATION

MDL NO. 1658 (SRC)

THIS DOCUMENT RELATES TO:  
THE CONSOLIDATED SECURITIES ACTION

CASE NO. 2:05-CV-01151-SRC-MAS  
CASE NO. 2:05-CV-02367-SRC-MAS

**STIPULATION AND [PROPOSED] ORDER**

**WHEREAS**, *In re Merck & Co., Inc., Securities, Derivative & "ERISA" Litigation*, MDL No. 1658 (the "MDL"), is pending before this Court;

**WHEREAS**, the consolidated securities action, No. 05-CV-02367 (the "Consolidated Securities Action") is one of the pending MDL proceedings;

**WHEREAS**, the Plaintiffs in the Consolidated Securities Action filed their Corrected Consolidated Fifth Amended Class Action Complaint (the "Fifth Amended Complaint") on March 10, 2009;

**WHEREAS**, the Defendants in the Consolidated Securities Action moved to dismiss the Fifth Amended Complaint on May 1, 2009;

**WHEREAS**, on July 7, 2009, the District Court stayed the proceedings in the Consolidated Securities Action pending the adjudication of the appeal pending before the United States Supreme Court (No. 08-905), and ordered the parties to file a joint report within thirty (30) days following the conclusion of proceedings in the Supreme Court;

**WHEREAS**, on September 17, 2009, in light of the Supreme Court appeal, Defendants withdrew their respective pending motions to dismiss without prejudice to their refiling such motions in the future;

**WHEREAS**, on April 27, 2010, the United States Supreme Court affirmed the Third Circuit, thereby returning the Consolidated Securities Action to the District Court; and

**WHEREAS**, the parties have conferred and stipulated to a schedule for Defendants to re-file their motions to dismiss and for the briefing of such motions;

**IT IS HEREBY STIPULATED AND AGREED** by and between the parties, through their undersigned counsel, **AND SO ORDERED**, as follows:

1. Defendants shall serve and file their respective motions to dismiss the Fifth Amended Complaint by June 15, 2010, and the briefs in support of Defendants' motions to dismiss each shall not exceed 60 pages;

2. Plaintiffs shall serve and file their opposition(s) to any motion(s) to dismiss the Fifth Amended Complaint by August 3, 2010, and the briefs in support of Plaintiffs' opposition each shall not exceed 60 pages;

3. Defendants shall serve and file their respective reply briefs in further support of the motions to dismiss the Fifth Amended Complaint by September 15, 2010, and the reply briefs each shall not exceed 30 pages;

4. Nothing in this Stipulation and Order shall, or shall be asserted by any party to, waive, prejudice or otherwise affect any position or argument of any party asserted in support of or in opposition to Defendants' responses to the Fifth Amended Complaint.

DATED: May 24, 2010

STIPULATED AND AGREED

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DATED: May 24, 2010

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SO ORDERED: 6/3, 2010



Hon. Stanley R. Chesler  
United States District Judge